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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,486	06/15/2001	Jay H. Connelly	042390P11861	8023

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EXAMINER

SALCE, JASON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/882,486

Applicant(s)

CONNELLY, JAY H.

Examiner

Jason P Salce

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-15,32-37,53-56 and 77-79 is/are pending in the application.
- 4a) Of the above claim(s) 1-9,16-31,36-52,57-76 and 80-85 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10-15,32-37,53-56 and 77-79 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4 and 5.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of claims 10-15, 32-37, 53-56 and 77-79 in Paper No. 7 is acknowledged. The traversal is on the ground(s) that the inventions claimed are not distinct and the search and examination of the entire application cannot be made without serious burden. This is not found persuasive because the inventions although similar in teaching a feedback system, are distinct in the operation of how the feedback is sent back to the server, which is support by the election of species (stated in the previous Office Action). The invention broadly teaches a server-client system for receiving content descriptions (which could be any type of data in any type of network environment, i.e. television or computer network) and sending feedback according to different requirements of the receiver system. These requirements for transmitting feedback to a server are distinct and would place a serious burden on the examiner to search all of the claimed inventions. For example, claim 10 of the instant application discloses receiving content descriptions, generating demand data (such as a viewing history) and sending feedback to the server when the viewing history is generated. Such a system would be classified in class 725, subclass 14. Additionally, claim 16 of the instant application describes receiving content descriptors from a the server, storing them at the receiver and sending feedback in accordance with when the data stored in the receiver has been accessed. Such a system would be classified in class 709/203.

The requirement is still deemed proper and is therefore made FINAL.

Information Disclosure Statement

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2. The information disclosure statement (IDS) submitted on 1/13/04 has been received. The submission is in compliance with the provisions of 37 CFR 1.97.

Accordingly, the examiner is considering the information disclosure statement.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 10-15, 32-35, 53-56 and 77-79 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hendricks et al. (U.S. Patent No. 6,160,989).

Referring to claim 10, Hendricks discloses receiving content descriptors, which describe content, from a server (see Column 7, Lines 15-17, 21-24 and 65-67 and Column 8, Lines 1 and 44-48 for receiving menu data for programming transmitted from the server).

Hendricks also discloses generating demand data related to the content described by the content descriptors (see Column 17, Lines 39-42 for generating a subscriber's program access history (demand data) status report).

Hendricks also discloses sending feedback to the server after demand data is generated related to a first amount of content (see Column 17, Lines 49-57 for sending the status report from the set top box to the network controller (server)).

Referring to claim 11, Hendricks discloses that the generation of the demand data comprises consuming at least a portion of content locally stored (see Column 17, Lines 40-41 for viewing the content and generating demand data (access history status report) according to the content viewed). The examiner notes that the limitation “consuming” is broad and viewing the content transmitted from the server, entails “consuming” such content.

Hendricks also discloses that the generation of demand data is responsive to the portion of content that is consumed (i.e. the demand data (Column 17, Lines 40-41) is generated based on the content that is viewed).

Referring to claim 12, Hendricks discloses that the generation of demand data related to the content (see rejection of claim 11) described by the content descriptors (the EPG for selecting programs) comprises receiving explicit user input regarding specific pieces of content (note that the program access history is a record of what programs the user has accessed, which is inherently a specific user input regarding specific pieces of content).

Referring to claim 13, Hendricks discloses sending feedback to the server after demand data related to a first number of pieces of content have been generated (see again the rejection of claim 10 for generating demand data based upon a subscriber's program access history, which is a **first number of pieces of content** (i.e. the content accessed by the user to form the history file)).

Referring to claims 32-35, see rejection of claims 10-13, respectively.

Referring to claims 53-56, see rejection of claims 10-13, respectively.

Referring to claims 77-79, see rejection of claims 10-12, respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 14-15 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (U.S. Patent No. 6,190,989) in view of Graves et al. (U.S. Patent No. 5,410,344).

Referring to claim 14, Hendricks discloses the generation of demand data at the receiver's set top box (see rejection of claim 10) by a user's access history file, but fails to teach disclosing demand data by ranking the content viewed.

Graves discloses generating demand data of content by ranking the content (see Figure 6 and Column 7, Lines 5-20).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the subscriber's access history function, as taught by Hendricks, using the ranking function, as taught by Graves, for the purpose of creating a preferred viewing file based on the personal preferences of the viewer (see Column 2, Lines 1-2 of Graves).

Referring to claim 15, Hendricks discloses the generation of demand data at the receiver's set top box (see rejection of claim 10) by a user's access history file, but fails to teach disclosing demand data by rating the content viewed.

Graves discloses generating demand data of content by rating the content (see Figure 5 and Column 6, Lines 60-67 and Column 7, Lines 1-40).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the subscriber's access history function, as taught by Hendricks, using the rating function, as taught by Graves, for the purpose of creating a preferred viewing file based on the personal preferences of the viewer (see Column 2, Lines 1-2 of Graves).

Referring to claims 36-37, see rejection of claims 14-15, respectively.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 24th, 2004



HAITRAN
PATENT EXAMINER